

§ 323.4

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employee”, within the meaning of part 302 of this chapter;

(d) Payment of benefits under the plan is coordinated with benefit payments to which the employee may be entitled under the Railroad Unemployment Insurance Act. In general, plan benefit payments will be considered coordinated with Railroad Unemployment Insurance Act benefit payments when computation of the plan benefits takes Railroad Unemployment Insurance Act benefit entitlement into consideration in such a way as to make it clear that the plan is supplementing Railroad Unemployment Insurance Act benefit payments for days of unemployment or days of sickness. For example, a plan that provides for payment of a specified daily benefit amount is considered coordinated with Railroad Unemployment Insurance Act benefit payments if the plan provides that the daily benefit amount otherwise payable to the employee is reduced by the amount of benefits that the employee received or could receive under the Railroad Unemployment Insurance Act for the same day if the employee had met all the eligibility criteria for such benefit. Similarly, there is acceptable coordination if the plan simply provides for payment of an amount as an “add-on” benefit to the amount of Railroad Unemployment Insurance Act benefits paid or payable. On the other hand, a plan that allows payment so as to compensate an employee for railroad or non-railroad earnings that are lower in amount than what the employee would get under the plan if he or she were not employed is not considered coordinated with benefit payments under the Railroad Unemployment Insurance Act because an employer payment made under such circumstances supplements earnings rather than benefit payments under the Railroad Unemployment Insurance Act. No Railroad Unemployment Insurance Act benefits are payable to an employee who is earning remuneration from railroad or non-railroad employment. Employer payments that make up for low earnings are pay for time lost and therefore are *compensation* and *remuneration*;

(e) The plan confers upon covered employees an enforceable right to the

benefits under the plan. The plan may not commit to management discretion any decision as to whether such employee will actually be paid the benefits to which he is entitled under the plan or the amount to be paid;

(f) The plan may not provide benefits to a covered employee in an amount that, when added to his or her Railroad Unemployment Insurance Act benefits, is greater than the wages of salary that would have been paid if the employee were employed; and

(g) The plan incorporates the features set forth in § 323.4 of this part and has been approved by the Board’s Director of Unemployment and Sickness Insurance as a nongovernmental plan for unemployment or sickness insurance.

§ 323.4 Guidelines for content of a nongovernmental plan.

At a minimum, a nongovernmental plan for unemployment or sickness insurance should contain the following features:

(a) The title of the plan (e.g., Supplemental Unemployment Benefit Plan or Supplemental Sickness Benefit Plan);

(b) A statement of purpose, such as the following:

There is hereby established a nongovernmental plan for (unemployment insurance) (sickness insurance) [specify which one] within the meaning of section 1(j) of the Railroad Unemployment Insurance Act. The purpose of this plan is to supplement the benefits that an eligible employee may receive under that Act and not to replace or duplicate such benefits. Payments under this plan are designed as one of the benefits of employment with [name of employer] and are not intended as pay for time lost or any other form of remuneration for services rendered as an employee;

(c) A statement as to which class or craft of employees, or other specified group of employees, is covered by the plan;

(d) The criteria governing a particular covered employee’s eligibility for supplemental benefits under the plan;

(e) The dollar amount of supplemental benefits payable on a periodic basis to an eligible employee, the duration of supplemental benefits, how such benefits will be computed, and the conditions under which an employee will

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be disqualified or benefit payments reduced or terminated; and

(f) The identity of the plan administrator and the procedure by which a covered employee may claim supplemental benefits under the plan, including forms to be filed (if any), how to file, the time limit for filing, and how an employee may appeal from a denial of supplemental benefits.

§ 323.5 Submitting proposed plan for Board approval.

An employer shall submit each proposed plan, or a proposed revision to an existing plan, to the Director of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. The Director shall determine whether the plan or revision conforms to this part. Approval shall be effective as of the effective date of the plan. If not approved, the Director will advise the employer in which particular respects the proposed plan or revision does not conform to this part.

§ 323.6 Treatment of benefit payments under a nongovernmental plan for purposes of contributions.

Benefit payments under nongovernmental plans approved by the Board under this part are not *compensation* as defined in section 1(i) of the Railroad Unemployment Insurance Act, and therefore they are not subject to contribution under part 345 of this chapter.

§ 323.7 Effective date.

(a) This part shall not apply to a plan approved by the Director of Unemployment and Sickness Insurance prior to the effective date of this part. However, it shall apply to any proposed revision to such plan.

(b) Any plan in effect on the effective date of this part that has not been approved by the Director of Unemployment and Sickness Insurance shall be considered a proposed plan for purposes of § 323.5.

PART 325—REGISTRATION FOR RAILROAD UNEMPLOYMENT BENEFITS

Sec.

- 325.1 General.
- 325.2 Procedure for registering for unemployment benefits.
- 325.3 Application for unemployment benefits and employment service.
- 325.4 Claim for unemployment benefits.
- 325.5 Death of employee.
- 325.6 Verification procedures.

AUTHORITY: 45 U.S.C. 362(i) and 362(l).

SOURCE: 54 FR 24551, June 8, 1989, unless otherwise noted.

§ 325.1 General.

(a) *Day of unemployment.* A “day of unemployment” is a calendar day on which an employee, although ready and willing to work, is unemployed, and on which no remuneration is payable and for which the employee has registered, as required by this part. The amount of compensable days of unemployment shall be computed in accordance with this section.

(b) *Registration period.* Except for registration periods in extended unemployment benefit periods, a “registration period” means a period of 14 consecutive days beginning with the first day for which an employee registers following:

- (1) His or her last day of work, or
- (2) The last day of the employee’s last preceding registration period, and with respect to which the employee properly files a claim for benefits on such form and in such manner as the Board prescribes.

(c) *General waiting period.* Benefits are payable to any qualified employee for each day of unemployment in excess of seven during his or her first registration period in a period of continuing unemployment if such period of continuing unemployment is his or her initial period of continuing unemployment beginning in the benefit year, and then for each day of unemployment in excess of four during any subsequent registration period within the same period of continuing unemployment. A strike waiting period, described in paragraph (d) of this section, will satisfy a general waiting period with respect to a benefit year.